



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,156	06/21/2000	Jeff Young	2230	6933

7590 12/19/2002

Michalik & Wylie PLLC
Suite 103
14645 Bel-Red Road
Bellevue, WA 98007

EXAMINER

GROSS, KENNETH A

ART UNIT	PAPER NUMBER
----------	--------------

2122

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/599,156

Applicant(s)

YOUNG ET AL.

Examiner

Kenneth A Gross

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☒ Claim(s) 27 and 39-51 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 27 objected to because of the following informalities: “attempting to initiating” should be “attempting to initiate”. Claim 27 objected to because of the following informalities: “indicative of installation service” should be “indicative of the installation service”. Appropriate correction is required.
2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Specifically, there are two claims numbered 38. Therefore, misnumbered Claims 38-50 (starting with the second Claim 38) been renumbered Claims 39-51.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-26, 28, 30-32, 34-37, 40, 45, 47, and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the machine". This is understood to mean, "the client machine", but needs to be explicitly stated.

Claim 3 recites the limitation "discovery information". There is insufficient antecedent basis for this limitation in the claim. Claim 5 recites the limitation "included or excluded". It is unclear as to what it means for the client machine to be included or excluded. Claim 16 recites the limitation "discovered machines". There is insufficient antecedent basis for this limitation in the claim. Claims 17 and 28 recite the limitation "discovery information." There is insufficient antecedent basis for this limitation in the claim. Claim 20 recites the limitation "client configuration record." It is unclear from the scope of this claim, how the configuration request contains a client configuration record before a connection is established with the client machine. The term "period of time" in claim 40 is a relative term, which renders the claim indefinite. The term "period of time" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Claims 11, 12, 30-32, 34, 35, 37, 45, 47, and 48 recite the limitation "queuing" or "dequeuing" a configuration request. It is unclear in these claims as to what exactly the configuration request is being queued or dequeued from. Claims 2, 4, 6-10, 13-15, 18, 19, 21-26, and 36 are rejected for being dependent on a rejected claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Luu (U.S. Patent Number 5,860,012).

In regard to Claim 1, Luu teaches: (1) initiating a connection at a server to the client machine (Column 1, lines 60-66); (2) transmitting an installation service from the server to the client machine (Column 2, lines 2-6); and (3) executing the installation service (Column 2, lines 2-6).

3. Claims 16, 17, 19, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by May (U.S. Patent Number 5,809,251).

In regard to Claim 16, May teaches a configuration manager for initiating a connection to the client machine (Column 13, lines 47-48) and also teaches an installation service transmitted to the client machine (Column 13, lines 59-64). May does not explicitly teach a data manager, but does teach a medium for evaluating information on discovered machines (Column 13, lines 49-55) and the selected client machine is the one in which the server connects to initially (Column 13, lines 47-48). The server must have selected the machine before the connection was made.

In regard to Claim 17, May teaches using the discovery information to determine whether the link used to connect the server with the client is adequate, and selects the client machine for a data transfer link if the server if an adequate link is provided (Column 13, lines 56-67 and Column 14, lines 1-12).

In regard to Claim 19, May teaches the server system producing a configuration request (Column 7, lines 50-51), wherein the configuration request is passed to the configuration manager where it is send to the client machine (Column 7, lines 51-54).

In regard to Claim 22, May teaches a retry queue (Column 7, lines 61-63).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-15, 18, 21, 23-34, 38-39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luu (U.S. Patent Number 5,860,012) in view of May et al. (U.S. Patent Number 5,809,251).

In regard to Claim 2, Luu teaches the method of Claim 1, but does not explicitly teach discovering the client machine. May, however, does teach receiving a software image from the remote computer (Column 7, lines 65-67 and Column 8, lines 1-3). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the method of installing software, as taught by Luu, where the server discovers the client machine by obtaining a computer image, since this would allow the server to have detailed information about the client.

In regard to Claim 3, May teaches analyzing the software image and determining whether an upgrade is appropriate (Column 8, lines 4-7). Claim 28 corresponds directly with Claim 3 and is rejected for the same reasons as Claim 3.

In regard to Claim 4, May teaches evaluating the software based on a set of rules, to determine if an upgrade is needed (Column 8, lines 4-7).

In regard to Claim 5, May teaches determining whether a client needs upgrading or not based on the computer image; hence determining whether the client machine is included or excluded from installation.

In regard to Claim 6, Luu teaches obtaining a system snapshot, where the snapshot includes operating system information (Column 5, lines 51-59).

In regard to Claim 7, May teaches obtaining a computer image, including version numbers of software, which is a property of the machine Column 7, lines 65-67).

In regard to Claim 8, May teaches determining whether or not certain software is installed on the machine (Column 8, lines 4-7).

In regard to Claim 9, May teaches creating a request to the client machine (Column 7, lines 50-51). Claim 29 corresponds directly with Claim 9 and is rejected for the same reasons as Claim 9.

In regard to Claim 10, May teaches processing the configuration request (Column 7, line 67 and Column 8, lines 1-2).

In regard to Claim 11, May teaches placing the request on a queue if the communication initially fails between the server and a client (Column 7, lines 61-63). Claim 34 corresponds directly with Claim 11, and is rejected for the same reasons as Claim 11.

In regard to Claim 12, May teaches, "the MIS system queues a remote request for the next appropriate connection" (Column 8, lines 19-21). Therefore, it is obvious that the request will eventually be dequeued and processed. Claim 30 corresponds directly with Claims 11 and 12 and is rejected for the same reasons as Claims 11 and 12. Claims 21 and 32 correspond directly with Claim 12, and are rejected for the same reasons as Claim 12.

In regard to Claim 13, Luu teaches executing an installation service on a client machine, connecting to a server, and downloading needed files (Column 7, lines 11-24 and Column 8, lines 1-5). Claim 38 corresponds directly with Claim 13 and is rejected for the same reasons as Claim 13.

In regard to Claim 14, Luu teaches installing optional components on the client machine by executing additional software (Column 2, lines 2-11). Claims 26 and 39 correspond directly with Claim 14, and are rejected for the same reasons as Claim 14.

In regard to Claim 15, Luu teaches a medium for carrying out the method of Claim 1 (Column 86, lines 12-38).

In regard to Claim 18, the examiner takes official notice that a common way to store information on a computer is by means of a file, which can be classified as a type of record.

In regard to Claim 23, Luu teaches a bootstrap service for installing additional management software (Column 7, lines 11-24 and Column 8, lines 1-5).

In regard to Claim 24, Luu teaches obtaining files from a server (Column 8, lines 1-5). Since the client accesses this server, the server is a client access point.

In regard to Claim 25, Luu teaches connecting the client machine to another server by means of a bootstrap service (Column 7, lines 11-24 and Column 8, lines 1-5).

In regard to Claim 27, Luu teaches: (1) initiating a connection at a server to the client machine (Column 1, lines 60-66); (2) transmitting an installation service from the server to the client machine (Column 2, lines 2-6); and (3) executing the installation service (Column 2, lines 2-6). Luu does not teach retrying the connection if an initial connection is not made. May, however, teaches retrying a connection by placing the connection request on a retry queue

(Column 7, lines 61-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a method for installing software, as taught by Luu, where the method includes retrying the connection if the initial connection fails, as taught by May, since this would allow for more automation, and a more fault tolerant system.

In regard to Claim 31, May teaches queuing the configuration request if the first attempt is unsuccessful (Column 7, lines 61-63).

In regard to Claim 33, May teaches sending a request to a client machine. It is obvious that there is an address associated with the client request, in order for the server to successfully send the request to the client. This address is data indicative of the installation service executing on the client machine.

In regard to Claim 40, May teaches placing a connection request on a retry queue, which waits for a period of time before retrying (Column 7, lines 61-63).

In regard to Claim 41, both Luu and May teach a medium for carrying out their method. Since Luu and May teach the modified method, a modified system can be created to carry out this method.

6. Claims 42 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luu (U.S. Patent Number 5,860,012) in view of Herrmann (U.S. Patent Number 5,995,756).

Luu teaches: (1) initiating a connection at a server to the client machine (Column 1, lines 60-66); (2) transmitting an installation service from the server to the client machine (Column 2, lines 2-6); and (3) executing the installation service (Column 2, lines 2-6). Luu does not teach determining whether a user that is logged onto the client has sufficient security rights, and if so, executing a process at the client to install the software. Herrmann, however, teaches checking

Art Unit: 2122

user rights on a client-to-client basis, and allowing the client to download applications if their rights are approved (Column 10, lines 40-43 and lines 46-52). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to check security rights beforehand, and if the client's rights are approved, allow them to execute an installation process, as taught by Herrmann, and if their rights are not approved, transmit and automatically run an installation service as taught by Luu. The benefit of this is, the server can easily install software to clients with little security rights, without fear of a security breach.

In regard to Claim 51, both Luu and Herrmann teach a system for carrying out their method. Since Luu and Herrmann teach the modified method, a modified system can be created to carry out this method.

7. Claims 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luu (U.S. Patent Number 5,860,012) in view of May et al. (U.S. Patent Number 5,809,251) and further in view of Lerche (U.S. Patent Number 6,457,175).

In regard to Claim 35, Luu and May teach the modified device of Claim 34. Furthermore, May teaches, "the MIS system queues a remote request for the next appropriate connection" (Column 8, lines 19-21). Therefore, it is obvious that the request will eventually be dequeued. Luu and May do not teach verifying the execution and retrying the execution if the first attempt is unsuccessful. Lerche, however, teaches checking to see if the execution of the code is successful or not (Column 3, lines 39-45). It would be obvious to reattempt execution of installation if the first attempt is unsuccessful, since a second attempt would yield better success rates.

In regard to Claim 37, Claim 37 is rejected under the same logic used in the rejection of Claim 11.

Art Unit: 2122

8. Claims 43-47, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luu (U.S. Patent Number 5,860,012) in view of May et al. (U.S. Patent Number 5,809,251) and further in view of Herrmann (U.S. Patent Number 5,995,756).

In regard to Claim 43, Claim 43 is rejected under the same logic used in the rejection of Claim 3.

In regard to Claim 44, Claim 44 is rejected under the same logic used in the rejection of Claim 9.

In regard to Claim 45, Claim 45 is rejected under the same logic used in the rejection of Claim 12.

In regard to Claim 46, Claim 46 is rejected under the same logic used in the rejection of Claim 33.

In regard to Claim 47, Claim 47 is rejected under the same logic used in the rejection of Claim 11.

In regard to Claim 49, Claim 49 is rejected under the same logic used in the rejection of Claim 13.

In regard to Claim 50, Claim 50 is rejected under the same logic used in the rejection of Claim 14.

9. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luu (U.S. Patent Number 5,860,012) in view of May et al. (U.S. Patent Number 5,809,251) and further in view of Herrmann (U.S. Patent Number 5,995,756) and Lerche (U.S. Patent Number 6,457,175).

In regard to Claim 48, Claim 48 is rejected under the same logic used in the rejection of Claim 35.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Dickey (U.S. Patent Number 5,881,236) teaches a system for installation of software on a remote computer).


Feinman (U.S. Patent Number 6,075,943) teaches a system for client server software installation).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A Gross whose telephone number is (703) 305-0542. The examiner can normally be reached on Mon-Fri 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A Morse can be reached on (703) 308-4789. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

KAG
December 11, 2002


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100